

serious burden, the examiner *must* examine it on the merits, even though it includes claims to independent or distinct invention.” (Emphasis added.) M.P.E.P. 803. Accordingly, it is respectfully submitted that the restriction be withdrawn.

Although it is believed that a restriction of the original claims is not proper at all in the subject application as discussed above, Applicants respectfully submit that at a minimum, the restriction requirement should be modified to combine Group VI (claim 16), drawn to a method of making compounds of formula I, with the elected Group because they comprise overlapping subject matter. “Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder.” See, M.P.E.P. § 806.05.

Applicants further submit that composition claims 19 and 20, along with kit claim 22 are linked to the compounds of Formula I as combination and subcombination. “Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations.” See, MPEP § 806.05(c). In the absence of such a showing, the Office is courteously requested to modify the pending restriction requirement to include these claims.

Should the Restriction Requirement still be maintained, Applicants will seek reentry of any withdrawn claims once allowable subject matter has been determined.

No fees are believed to be due with this response; however, the Commissioner is hereby authorized to charge any fees associated with this response to Deposit Account No. 13-3402.

Respectfully submitted,



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